II.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Consultation with the Public Services Commission in regard to appointments and disciplinary cases.

* 291 *Q.*—SRI T. PURUSHOTHAM : Will the Hon. the Chief Minister be pleased to state—

(*a*) whether, in the matter of temporary appointments made by the appointing authorities in all the departments of the Government, only qualified persons are required to be appointed, and if so, the action taken by the Government in cases reported by the Madras Public Service Commission where this has not been done;

(*b*) the action taken by the Government to bring under the purview of the Madras Public Service Commission all posts in Government services which are still outside its purview; and

(*c*) whether the Government will be pleased to lay on the table of the House a list of disciplinary cases against Government servants in which the Madras Public Service Commission was not consulted under Article 320 (*c*) of the Constitution during 1952–53, with reasons for not so doing?

THE HON. SRI M. BHAKTAVATSALAM (on behalf of the Hon. the Chief Minister) :—" (*a*) The Government have laid down that temporary appointments should not ordinarily be made of a person who does not possess the qualifications prescribed for the post to which he is appointed but in cases where for want of qualified hands, appointment of an unqualified person cannot be avoided, specific orders of Government should be obtained for making the appointment to a non-technical post and if the post is technical, the appointments made should be reported to Government every three months.

" The Madras Public Service Commission reported three cases of appointments of unqualified candidates in the co-operative departments and also some cases of appointment as clerks in the Highways and the Electricity departments. In the cases in the Co-operative department, the orders of Government ratifying the appointments were obtained by the Registrar of Co-operative Societies. In one case in the Highways department, the Madras Public Service Commission has given the concurrence to the appointment and in another the candidate was reverted. In four cases in the Electricity department, the temporary appointments are being continued with the concurrence of the Commission, till regular candidates are allotted by the Commission.

" (*b*) The Madras Public Service Commission Regulations have been revised in consultation with the Commission bringing as many posts as possible within its purview. A copy of the revised regulations was placed on the table of the House on 12th August 1954.

2nd August 1955]

"(*c*) It is presumed that the disciplinary cases referred to are cases enquired into by the Tribunal for Disciplinary Proceedings. Such cases have been excluded from the Commission's purview by a regulation issued by the Governor under the proviso to Article 320 (*c*) of the Constitution of India. The reason for excluding such cases is that as practically all the safeguards obtaining in a court of justice would be secured to the accused officers, it is unnecessary to consult the Commission in those cases. This exclusion was ordered on the recommendation of the Corruption Enquiry Committee which was appointed by Government to enquire into the question of corruption in the Public Services and to suggest ways and means for dealing with it. A list[a] of such cases is placed on the table of the House."

SRI T. PURUSHOTHAM :—"With reference to the answer to clause (*a*) of the question, may I know whether the rule of rotational representation of Scheduled and Backward classes is observed in the case of temporary appointments also, and if not, will the Government issue a directive to the heads of departments to follow this rule even in the matter of temporary appointments?"

THE HON. SRI M. BHAKTAVATSALAM :—"I would like to have notice."

SRI T. PURUSHOTHAM :—"With reference to clause (*a*), Sir, may I know whether the Tribunal for Disciplinary Proceedings is a court of law, and if not, why on completion of its enquiry, the advice of the Public Service Commission is not taken as laid down in Article 320 (*c*) of the Constitution before the Government pass final orders? Will the Government kindly re-examine the question in the light of the objections raised by the Madras Public Service Commission in their successive reports and also the procedure adopted by the Hyderabad Public Services Commission?"

THE HON. SRI M. BHAKTAVATSALAM :—"The Tribunal for Disciplinary Proceedings is considered a quasi-judicial body and Government do not think it necessary invariably to consult the Public Service Commission regarding the recommendations made by the Tribunal. I may tell the hon. Member that the Government do consult the Commission when they differ from the Tribunal."

SRI T. PURUSHOTHAM :—"In view of the specific provision made in the Constitution and in view of the fact that in some other States the procedure adopted is to consult the Public Service Commission even in cases dealt with by the Tribunal, will the State Government refer the matter to the Central Government so that a uniform procedure may be followed in this matter in all the States?"

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[a] Printed as Appendix I on pages 47–50 infra.

[2nd August 1955

The Hon. Sri M. BHAKTAVATSALAM :—" We have our own interpretation of the proviso to Article 320 of the Constitution of India. We do not know what exactly is the kind of Tribunal functioning in other States. I do not think it is necessary to have a uniform pattern in this matter."

4-20 p.m. Sri MOHAMED RAZA KHAN :—" From the papers placed on the table of the House we find there have been more dismissals and less acquittals. If these cases had been considered by the Public Service Commission, is there not the possibility of the reverse being the order? "

The Hon. Sri M. BHAKTAVATSALAM :—" I do not agree with the hon. Member that the Public Service Commission should take definitely a lenient view of these disciplinary matters."

Sri G. KRISHNAMOORTHI :—" Have there not been cases wherein Government have enhanced the punishment over and above of what has been awarded by the quasi-judicial tribunal and the Public Service Commission? "

The Hon. Sri M. BHAKTAVATSALAM :—" I do not know whether the hon. Member refers to any specific cases, where Government have enhanced the punishment as against the recommendations of the Public Service Commission and the Tribunal. If there are sufficient grounds and the Government feel that the punishment should be more deterrent, they might enhance the punishment just as an Appellate Court sometimes, when it thinks it fit, does enhance the sentence given by the trial Court."

Sri K. BALASUBRAMANYA AYYAR :—" Does not the enquiry by a Tribunal into disciplinary matters affecting a person, serving the Government of a State, constitute sufficient reason for not complying with the provisions of Article 320 (3) (*c*) of the Constitution? "

The Hon. Sri M. BHAKTAVATSALAM :—" As regards the Tribunal, it is constituted as a judicial body and therefore it is considered by Government that it is not necessary to refer the recommendations of the Tribunal to the Public Service Commission invariably."

Dr. V. K. JOHN :—" May I enquire whether before reversing the decision of the Tribunal, the Government appoint another Tribunal or Judge or some other Judicial Body to find out whether the Tribunal is right or wrong or if need be, to revise the opinion of the judicial body? "

The Hon. Sri M. BHAKTAVATSALAM :—" I have already stated that whenever Government do not feel like accepting the recommendations of the Tribunal, they may make a reference to the Public Service Commission and take their advice."

2nd August 1955]

Dr. A. LAKSHMANASWAMI MUDALIYAR :—" I find a large number of Gazetted Officers in the statement furnished. Quite a large number have been dealt with in one year, i.e., 1952–53. The number is as much as 83. During my 33 years of service under the Government, there was only one case of an Assistant Surgeon who was dismissed from service. Will the Government throw some light on the reasons why there has been such a large number of dismissals?"

The Hon. Sri M. BHAKTAVATSALAM :—" I am sorry I am not in a position to explain the reasons for there being such a large number of dismissals. Unless and until I enquire into each and every case, I cannot explain the reasons. Where the officers have been proved to have committed the offences, necessary action has been taken by Government. Anyhow Government would certainly look into the matter."

Dr. A. LAKSHMANASWAMI MUDALIYAR :—" In view of the fact that the number is large, is it not desirable that the Public Service Commission also should be consulted in the matter?"

The Hon. Sri M. BHAKTAVATSALAM :—" I have already stated that whenever Government feel like differing from the Tribunal, they do consult the Public Service Commission."

Dr. V. K. JOHN :—" May I enquire whether whenever the Government consult the Public Service Commission, they follow the Commission's opinions or differ from them also?"

The Hon. Sri M. BHAKTAVATSALAM :—" As far as I know Government usually accept the opinions of the Public Service Commission."

Dr. A. LAKSHMANASWAMI MUDALIYAR :—" May I take it that because these cases relate to the year 1952–53, none of the members of the Treasury Benches know anything about these cases?"

The Hon. Sri M. BHAKTAVATSALAM :—" Unless we look into each case, we shall not be in a position to say what exactly is the case."

Sri V. CHAKKARAI CHETTY :—" As these are matters connected with discipline, may I ask why there should be two authorities, the Government and the Commission to deal with such matters? The Commission is an impartial body not connected with any political organisation and commands the confidence of the people. Why not the Government uphold what the Commission says? Otherwise, it will create a big agitation in the minds of the people. I would like to know whether it is necessary for the Government to deal with these cases."

[2nd August 1955

THE HON. SRI M. BHAKTAVATSALAM :—" I may tell the hon. Member that there is no question of the Government overruling what the Commission says in such matters. Matters are being referred to the Commission for its remarks in appropriate cases."

SRI T. PURUSHOTHAM :—" With reference to the answer just now given, may I know whether the recommendations of the Public Service Commission in regard to disciplinary matters are accepted by the Government as they are and whether there are not instances in which the Government have rejected the recommendations of the Commission? "

THE HON. SRI M. BHAKTAVATSALAM :—" I would like to have notice."

DR. V. K. JOHN :—" May I know what is the percentage of cases in which the Government differ from the decisions of the Tribunal? "

THE HON. SRI M. BHAKTAVATSALAM :—" I am sorry I do not have the statistics with me."

Improvement of slums under the Madras Slum Improvement (Acquisition of Land) Act, 1954.

* 292 *Q.*—SRI T. PURUSHOTHAM : Will the Hon. the Minister for Health be pleased to lay on the table of the House a statement showing the number of slums improved or taken up for improvement so far under the Madras Slum Improvement (Acquisition of Land) Act, 1954, with details of cost of each scheme?

THE HON. SRI A. B. SHETTY :—" The Government have decided to draw up a programme of slum improvement and to acquire and improve slums under the provisions of the Madras Slum Improvement (Acquisition of Land) Act. Proposals for drawing up the programme have been received from the Commissioner, Corporation of Madras. They are under the consideration of the Government."

SRI T. PURUSHOTHAM :—" Have the Government considered the extension of this Act to mufassal municipal towns in view of the fact that slum clearance is given an important place in the Second Five-Year Plan for municipal areas? "

THE HON. SRI A. B. SHETTY :—" That may be done in due course. Not now."

SRI V. CHAKKARAI CHETTY :—" It is a long time, quite a long time, since this subject of slum improvement was taken up by the Corporation of Madras. When I was a member of the Corporation Council, this subject went on and on but for want of finance nothing could be done to improve the slums. Has any real improvement been made to the slums in the past? Has any